

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 16.10.2018
CORAM
THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.No.27480 of 2018
and W.M.P.Nos.31985 and 31988 of 2018

1.M.Settu
2.M.Vinayagam

... Petitioners

Vs

- 1.The Tamil Nadu Slum Clearance Board,
Rep. By its Principal Secretary/Managing Director,
Kamarajar Salai, Chennai 5.
- 2.The Executive Engineer, Division No.3
Tamilnadu Slum Clearance Board,
Chennai 39.
- 3.The Estate Officer,
Estate Officer 2,
Tamil Nadu Slum Clearance Board,
Vyasarpadi, Chennai 600 039.

... Respondents

Writ Petition filed under Section 226 of the Constitution of India, praying to issue a writ of declaration, to declare the action of respondent locking and sealing of property situated in house no.10, No.17, Murthiagar Street Vyasarpadi, Chennai is null and void and unenforceable and consequently, direct the respondents to remove the lock and seal put up at the aforesaid property and handover the possession to petitioners.

For Petitioners : M/S.T.Dharani
For Respondents : Mr.B.Sundaramurthy

O R D E R

The petitioners have come forward with the aforesaid prayer. The case of the petitioners is that they are the owners of the property and initially the property was given to one E.Akilandam who is the grandmother of the petitioners herein. She died on 22.07.2012. An allotment order was given on 13.06.2018 to these petitioners and that they have been paying rent periodically. Suspecting foul play, the Slum Clearance Board asked the petitioners to appear for enquiry vide proceedings Na.Ka.No.G2/5870/2018 dated 07.08.2018 and accordingly, the petitioners appeared for enquiry on 24.08.2018. Thereafter, no

orders have been passed and now the house is kept in lock and seal.

2.Since, the petitioners are grand-children of E.Akilandam and that there is no notice for cancellation of the allotment, the petitioners prayed that the lock and seal may be lifted and that the possession may be handed over to them.

3.The learned counsel appearing for the Slum Clearance Board submitted that the petitioners have not produced any evidence to the effect that they are the grand-children of the deceased E.Akilandam. The factum of the death was also not informed to them earlier and when it came to light, it has been decided to lock and seal the premises.

4.Heard the learned counsel for the petitioners and respondents.

5.It is not in dispute that the place was allotted to E.Akilandam. Whether they are grand-children or not has got to be established by the petitioners and they have to produce the necessary legal heirship/succession certificate to establish the factum to get the allotment. From a reading of the allotment order dated 13.06.2018, it is very clear that the allotment has been given to the petitioners. But however as the petitioners have not produced any evidence to show that they are the legal heirs/successors of the deceased E.Akilandam, the respondents said to have taken steps for lock and seal, which cannot be interfered with.

6.In case the petitioners fail to produce the legal heirship /succession certificate, the lock and seal shall continue, apart from the fact that the electricity supply should be disconnected. There is no reason to direct the respondents to consider the representation dated 12.10.2018. In case the petitioners produce the legal heirship/succession certificate obtained from the appropriate authority/Court, after making Slum Clearance Board as a party in the said proceedings, it is open to the Slum Clearance Board to exercise the discretion and decide the allotment in accordance with law.

7.If the petitioners fail to take any steps to establish their case within a period of one month, it is open to the Slum Clearance Board to allot the said premise to some other person placed on seniority, if any maintained for that purpose, with pre-emptive clause that the allottee shall not sell the property to any one and in case they want to sell the property, it can be sold only to Slum Clearance Board, who in turn could sell it to other persons based on the list maintained by them at the market value. The principal laid down in W.P.No.24857 of 2003 dated

04.12.2017 has got to be followed.

8.In the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary/Managing Director,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai 5.

2.The Executive Engineer, Division No.3
Tamilnadu Slum Clearance Board,
Chennai 39.

3.The Estate Officer,
Estate Officer 2,
Tamil Nadu Slum Clearance Board,
Vyasarpadi, Chennai 600 039.

+1cc to Mr.T.Dharani, Advocate, S.R.No.71527

+1cc to Mr.B.S.Sundara Moorthi, Advocate, S.R.No.71528

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and W.M.P.Nos.31985 and 31988 of 2018

CA(CO)
GSP(15/11/2018)

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